

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GLORIA SUN JUNG,

Plaintiff,

v.

**3:16-CV-704
(JUDGE MARIANI)**

BANK OF AMERICA,

Defendant.

ORDER

The background of this Order is as follows:

On April 27, 2016, *pro se* Plaintiff Gloria Sun Jung filed a complaint (Doc. 1), and two days thereafter filed a motion for a preliminary injunction (Doc. 4). In June, 2016, Magistrate Judge Mehalchick granted Plaintiff's motion to proceed *in forma pauperis*. (Doc. 10). As a result, the Magistrate Judge performed a review of the complaint pursuant to 28 U.S.C. § 1915(e)(2) prior to authorizing the service of process. On August 2, 2016, the Magistrate Judge issued two Reports and Recommendations ("R&R"), one which recommended denying Plaintiff's motion for a preliminary injunction (Doc. 13) and the other which recommended dismissing Plaintiff's complaint with leave to amend certain claims (Doc. 14). Following the Magistrate Judge's recommendations, Plaintiff filed a "Judicial Notice and Cognizance - Demand Recuse the Magistrate and Replace with Article III Judge for Presiding Case" (Doc. 15), an Amended Complaint (Doc. 18) and an unintelligible

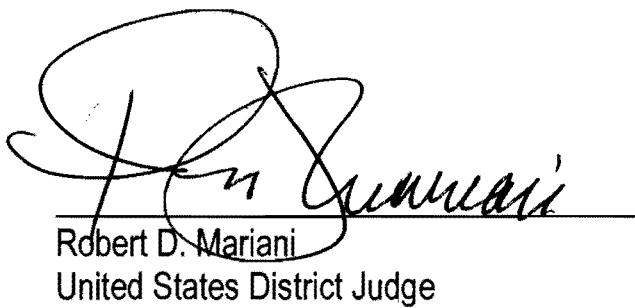
document entitled "Judicial Notice and Cognizance" (Doc. 19). Plaintiff did not file any objections to either R&R.

Despite no evidence of the complaint having been served on any defendant, on August 10, 2016, prior to the plaintiff filing her amended complaint, Arthur Zulick, one of approximately 20 defendants named in the complaint, filed a Motion to Dismiss (Doc. 16). Defendant Zulick filed a second Motion to Dismiss (Doc. 20) following the filing of Plaintiff's amended complaint.

ACCORDINGLY, THIS 11th DAY OF OCTOBER, IT IS HEREBY ORDERED THAT:

1. Upon review of Magistrate Judge Mehalchick's Report and Recommendation (Doc. 13) for clear error and manifest injustice, the R&R is **ADOPTED** for the reasons stated therein. Plaintiff's "Request for Preliminary Injunction" (Doc. 4) is **DENIED**.
2. Due to the filing by Plaintiff of an Amended Complaint (Doc. 18), Defendant Zulick's first Motion to Dismiss (Doc. 16) is **DISMISSED AS MOOT**.
3. Due to the filing by Plaintiff of an Amended Complaint (Doc. 18), Magistrate Judge Mehalchick's R&R (Doc. 14) recommending dismissal of the original complaint (Doc. 1) is **DISMISSED AS MOOT**. The action shall be remanded to Magistrate Judge Mehalchick for the preparation of a new R&R addressing Plaintiff's Amended Complaint.

4. In light of Plaintiff proceeding *in forma pauperis* and the Court having not completed the screening process of Plaintiff's amended complaint, nor the Court having ordered Plaintiff's complaint or amended complaint to be served on any defendant, Defendant Zulick's second Motion to Dismiss (Doc. 20) is **DISMISSED AS PREMATURE**. Should the Court allow Plaintiff's amended complaint to proceed and order that it be served on the defendants, Defendant Zulick may file a motion to dismiss or any other appropriate filing at that time.
5. The case is **REMANDED** to Magistrate Judge Mehalchick for further proceedings consistent with this Order.



Robert D. Mariani
United States District Judge